

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YEMISI AKINYEMI,

Plaintiff,

v.

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07 CV 4048 (AJP)

MICHAEL CHERTOFF, SECRETARY,
DEPARTMENT OF HOMELAND
SECURITY,

Defendant.
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SUPPLEMENTAL DECLARATION OF SUSAN MITCHELL

I, Susan Mitchell, do hereby state and declare as follows in accordance with the provisions of 28 U.S.C. § 1746:

1. Since January 2008, I have been serving as the Acting Executive Director, Operations, Office of Field Operations, for U.S. Customs and Border Protection ("CBP"), U.S. Department of Homeland Security ("DHS"), in Washington, D.C.
2. From July 2002 to January 2008, and at all times relevant to this litigation, I was the Director of Field Operations, New York, Office of Field Operations, for CBP or its predecessor agency, the U.S. Customs Service.
3. As the Director of Field Operations, New York, if I learned of an allegation of misconduct against an employee of CBP in the New York Area, I would refer such matter to others for investigation.
4. As the Director of Field Operations, New York, I did not personally conduct investigations into allegations of misconduct by CBP employees.

5. When I referred matters for investigation, such referral in no way predetermined the results of the investigation, or who the deciding official would be, in the event that discipline was determined to be appropriate.

6. As the Director of Field Operations, New York, I did not decide if or when an investigator should take a statement from an employee accused of misconduct.

7. If an investigation did not substantiate the alleged misconduct, I may or may not have been informed of the results of the investigation.

8. If an investigation substantiated the alleged misconduct, and the proposed discipline was more than 14 days, up to and including removal, I would be informed of the results of the investigation and I would be the deciding official on the discipline.

9. If an investigation substantiated the alleged misconduct, but the proposed discipline was 14 days or less, I might not always be informed about the results of the investigation. Area Directors, at the supervisory level directly below mine, had authority to impose discipline in these cases, and such cases were often handled by them without consultation with me.

I declare under penalty of perjury that the foregoing is true and correct based on information, knowledge, and belief.

Executed on March 11, 2008


SUSAN MITCHELL